

COMMISSIONERS APPROVAL

GRANDSTAFF *Cg*

ROKOSCH *JRM*

THOMPSON *AT*

CHILCOTT *g*

DRISCOLL *LD*

PLETTENBERG (Clerk & Recorder)

Date.....August 13, 2008

Members Present.....Commissioner Carlotta  
Grandstaff, Commissioner Jim Rokosch, Commissioner Alan Thompson, Commissioner  
Greg Chilcott and Commissioner Kathleen Driscoll

Minutes: Glenda Wiles

► The Board met at the Bedford Building for a continuation of a work session on Draft C  
for zoning.

► The Board met for a discussion and possible decision on the citizens' right to vote on  
zoning. Present at this meeting was County Attorney George Corn and numerous  
citizens. Commissioner Chilcott stated he apologized for not keeping the Commissioners  
abreast of his filing on Friday, as it came together pretty quickly by week's end.  
Commissioner Chilcott noted to the Board that he did advise them as early as Monday of  
last week that he was working on this issue, and that he has brought this issue of the  
citizen's ability to vote to the table for discussion on numerous occasions. He noted  
while the Commissioners cannot commit future boards to certain decisions, he feels it is  
important for the citizens to have their voice. He stated if this resolution and ballot  
language is submitted, the citizens can hold the Board accountable for any future  
amendments and zoning in general. Commissioner Chilcott asked the Board to authorize  
the Clerk and Recorder to put this ballot measure on the November ballot. By granting  
that request it would preclude collection of signatures or a special election.

County Attorney George Corn stated if the decision is to have this go to ballot in  
November; his office will have 21 days for review. If signatures are required, the  
measure will take until June 2010.

Commissioner Grandstaff noted she just received this Resolution copy and questioned  
who wrote it. Commissioner Chilcott replied a group of citizens; 'Citizens for Property  
Rights' who are a 501C 3 organization and who have been working on the citizens' right

to vote on zoning. This group had help from Attorney Alex Beal, who reviewed and assisted in the final draft. Commissioner Chilcott did not see the final draft until Friday of last week. Commissioner Rokosch asked who the principles of the group were. Commissioner Chilcott responded Dallas Erickson is the chair of this group.

Audience member Dallas Erickson stated Terry Nelson is vice chair, Niki Sardot is Secretary, Joanne Moore is Treasurer, and their group consists of 25 members. Dallas stated Attorneys Bill VanCanagan and Alex Beal worked on the draft. Commissioner Grandstaff noted Alex was a previous Deputy County Attorney and Bill VanCanagan has civil litigation against the County.

Commissioner Chilcott stated he would like to discuss the merits of the resolution. Commissioner Rokosch asked about the ballot statement reading '*any permanent county map adopted or amended*'. Commissioner Chilcott stated he feels the language can be modified if needed due to typographical or grammatical changes. Any substantive changes would need civil counsel review.

Commissioner Rokosch stated he has an alternative proposition. He suggested they put a sunset clause in the proposed zoning regulations that would, once adopted, allow the regulations to sunset unless it is approved by the majority of the electors at the next general election. He felt that would be similar to what Commissioner Chilcott suggested. He felt this idea would be preferable to giving the citizens the voting ability in this upcoming election, as it would allow the voters to make an informed decision as to what zoning is, during that period of 1-2 years when zoning is in effect.

Commissioner Grandstaff stated if the Board of County Commissioners adopted some zoning before 2010, then people can have the opportunity to see how it works, then on June 2010 they vote on whether to retain it. Commissioner Rokosch concurred with this, noting the zoning would then expire if the voters did not want it. Commissioner Grandstaff felt this was a good manner in which to approach the issue.

Commissioner Rokosch stated he has concerns about the Resolution in regard to the time frame because the Board of County Commissioners has no time to make adjustments in any zoning regulations or maps before the election. It would open up a 'field day' for litigation and private counsel's interpretation. Commissioner Grandstaff stated she agrees. If they could put this draft into practice, then they can see what will and would not work. She noted they don't want to have to wait a year or so in order to change the regulations if they do not work as that would preclude people's options.

Commissioner Chilcott stated we have regulations, followed by streamside setbacks, the Highway 93 corridor and many are concerned that by June 2010 we may have a proliferation of zoning regulations that will be enforced upon them with no recourse. He would like to see some sort of provision, and while he likes the sunset provision, it would allow them to travel down a broad path that citizens may not like.

Commissioner Grandstaff asked why make the citizens wait for a year or so to make the changes. Commissioner Chilcott replied 'there will be heartburn on subsequent zoning as previously illustrated'. Commissioner Driscoll stated she can see it from both sides, if the Board of County Commissioners were pro development or pro environmentalists; people might have a cause for concern. Her concern is the details of the resolution. She is also concerned about the cost of a special election, which could be upwards to \$40,000.00. She does not want to jump the gun and cost the citizens more money in a special election.

Commissioner Chilcott stated this does not call for a special election; this is a simple vote by the Commissioners which will provide citizens the ability to vote on zoning. The key difference is the enforceability of the zoning. The sunset provision approach, as Commissioner Rokosch has suggested would allow the Commissioners the ability to enforce zoning up to a year or two prior to an endorsement of the citizens.

Commissioner Rokosch suggested having zoning regulations and maps adopted, then at the next general election, after the voters have been under those regulations for at least a year or so, they could then make a valid decision on whether to keep zoning or not.

Commissioner Thompson stated within the community there is more talk about the ability to vote than the actual zoning itself. There are many people who are asking why they cannot vote. Yesterday they discussed the petition presented by citizens asking for the repeal of the Growth Policy. He stated he feels that repeal would be a mistake as it limits what you can do as a county. If we do not allow or adopt this Resolution as presented by Commissioner Chilcott today, we may lose our growth policy. If we give people the opportunity to vote on zoning it may save the growth policy. In the last election the citizens voted for three new people on the Board, and the 'one for 2'. Although he might not have personally liked these decisions, he as a Commissioner has to 'get behind what the citizens vote for'. There will be new points of view, and what is valid in a vote today might not be valid in a vote in November. The right thing for the Board now is to let the people vote on the zoning.

Commissioner Grandstaff stated that might be a good point, but this resolution today might not be what the Board wants to act on. Commissioner Rokosch stated 'lets not use the word zoning, but on the regulations and maps, that way the citizens have to do their homework, understand how it all works, and vote on the substantive portion of zoning and not on emotion'.

Commissioner Driscoll stated while Commissioner Thompson makes a good point, the Growth Policy petition is going to confuse this as it is on the ballot and people don't distinguish between the Growth Policy (petition that Dan Cox brought forth) and this zoning issue by Dallas' group. Commissioner Grandstaff agrees that is a conflict.

Commissioner Grandstaff also stated this morning when they reviewed Draft C, one of the many things pointed out was on page 19, Section 5.1 General Provision; in regard to applications being submitted to the county as complete, while inconspicuous, it can cause

some problems. Some things are not caught very quickly, why wait until an election to make that change?

Commissioner Driscoll stated while she favors zoning, she wants people to be able to vote on something they understand.

Commissioner Chilcott stated this is not a vote on adopting or repealing zoning, simply a vote on approving zoning. The citizens want a safety net or safeguard to regulations that might run amok. This Resolution provides that. This would put limits on potential proliferation of zoning which many consider a problem. Commissioner Chilcott stated public comment might be in order to future amendment. Commissioner Grandstaff stated the Board will take public comment until 2:30 p.m. Commissioner Driscoll wants the Clerk and Recorder to weigh in if necessary. Regina stated she has no concerns in regard to her department as it is simply a regular election.

Public Comment was then taken as follows:

Dallas Erickson stated there are two different issues for November; one is the right to vote on zoning and second is overturn the Growth Policy. This gives the voters the option to allow the people to vote. This petition will get lots of signatures, and will be put on the ballot by June 2010. He feels the people want that right to vote. As for working on some wording, his group would be open to that.

Roger DeHaan stated he is in favor of a sunset provision. The initiative process is a cumbersome way to run government. While there is sentiment to voting, there are also a large number of people who want the Commissioners to get on with it. He agrees this group (of Dallas's) can get enough signatures to get on the ballot, and if some people see that there is a sunset clause they will know they will have a chance to vote. He stated through the information from the Department of Revenue, they cannot estimate what the affect on property values will be for several years. It is Roger's hope the purpose of zoning is to increase the value of people's property. He thinks people need time to see that is the case. The idea of voting on every little thing is ridiculous.

Niki Sardot of Florence asked the Board of County Commissioners and the group how many people in the audience are military brats. Her father was in Korea, and his service gave them the freedom to vote.

Deidra Slagle wants the right to vote because no matter who is on the Board of County Commissioners, when people get a say they will feel better about it.

Bill Zader of Eight Mile Creek stated this is the most sacred value voters have and it separates them from 80% of the world. This is an important issue for everyone, and he would like that vote. The Commissioners should know if they have the support of the people or not.

Bob Mesmer agrees with the right to vote. He stated the Commissioners will either give this vote now, or with enough signatures they will have the vote through a special election. If the Board of County Commissioners does not give the citizens their right to vote, they set a bad tone for the citizens.

Charles Wissenbech of Pinesdale suggested the Commissioners allow the voters a straw poll. Many like him see a trap to this. Charles equated this vote issue like the wild mustangs; 'they start at a wild V and then into a corral, and then comes an irreversible operation'. There are some socialistic control freaks that push this zoning on the Commissioners. This will be Little California in the Bitterroot if the residents don't have the right to vote. Look what happened to the logging, first no logging, then no roads, now no cutting, and now you can't even take the dead trees. Why, because it is out of the people's control, and into the hands of a few. Extreme zoning will occur if people don't have a counter balance. If zoning is all about increasing the value of our property, then it is time to take a look at the people who own property and cannot do anything with it because of zoning. What about the young people starting out. If we have a sunset vote make sure we have sunset along the way.

Jan Wisniewski asked why there is a police officer in this room. Commissioner Driscoll replied the police officer pays taxes and he has a right to be there. Jan stated punctuation in documents can change a lot of things. Power must come from the people. Officials must do what the people want. A lot of people don't want what is coming down the pike. By not allowing this resolution, his group will expend a lot of effort to get the signatures and then it will add fuel to the fire when they are out working to get those signatures. The Growth Policy issue is on the November ballot and most voters won't be too confused if both are on ballot.

J.R. Iman encouraged the Board of County Commissioners to consider the fact that in 18 days these people got enough signatures for a Growth Policy vote. That has never happened before and it should tell the Commissioners something about what the people want. The Board of County Commissioners' actions in last six months have shown that the voter's right to express opinion is not being allowed. The Commissioners have cancelled meetings, and the people feel like they are being dominated without having their interest heard. We don't want to eliminate the Growth Policy but the reaction is easily defined. By going with Commissioner Chilcott's Resolution it gives you an opportunity to listen to the people. If the Growth Policy is rejected, the Commissioners are basically finished with zoning for two years, or you have an option – get the people to agree with you and then you will have a chance. When you force people into a corner they are like a caged bear, when they come out they will get you. Just because someone was not elected in another election does not give them the right to ignore, because by 2010 they will have a choice. J.R. suggested the Commissioners put this measure or a similar measure on the ballot. If it is a poor measure it will not pass, but if that is what the people want it will pass. In regard to any real substantive changes, he feels that would only matter if it changed the intent. Let the people give their affirmation or denial, and on a regular basis use the sunset provision for regular changes. What the Board of County Commissioners has done in the past, and an example of that is the streamside

setback issue would be to treat it as an emergency then look to zoning in six months. J.R. also noted the Commissioners cannot change people's perception on their rights in six months. It took eight months for the Growth Policy.

Commissioner Driscoll asked J.R. about the '1 for 2'. J.R. responded he feels the Board of County Commissioners should meet the risk by 'including people instead of excluding people'. He stated if people have no right to address their concerns, they will be like the bear in the cage.

Doug Watts of Victor stated they can vote on it now or in November 2010.

Public Comment was closed.

Commissioner Rokosch made a couple of comments in regard to an affirmative vote on amendments. He noted this has come up in their work sessions and he feels they need to have a provision that would allow a regular review of the regulations. He stated the provision could be handled with the attachment of a vote as well.

Commissioner Chilcott agrees there needs to be a regular review and endorsement by the citizens.

**Commissioner Rokosch made a motion to have sunset provision in the zoning regulation that is adopted in order to require a vote of the citizens to approve any zoning regulation that would be adopted at the next regularly scheduled election. Commissioner Driscoll seconded the motion noting her agreement with Charles Wisenback to include citizens in town the right to vote.** Discussion of the motion: Commissioner Chilcott stated under current law, it allows those people to vote. Commissioner Thompson asked will this petition go forward if this motion is approved? Commissioner Chilcott replied there is no alternative except to take it forward because the current Commissioners cannot speak to future boards. Citizens can't feel comfortable unless they know they can review the unchecked proliferation of regulations. Commissioner Driscoll stated people should review this and know what they are voting on. Commissioner Chilcott noted the people simply want the right to weigh in on this important issue.

Commissioner Chilcott stated he likes Commissioner Rokosch's compromise but noted the Growth Policy was non-regulatory. Zoning is regulatory and it has teeth, and he wants to make sure the citizens have a voice.

Commissioner Thompson stated his issue is perception, in that people see they are not getting the right to vote now but in 2010, which he believes will negatively impact the vote on the Growth Policy in November. The perception out there is they are not getting the right to vote. Commissioner Rokosch stated his motion will require a vote by the citizens, plus it will give the people the ability to understand what zoning means and to fully understand it before they cast their vote. Having zoning in place will give them substance to understand and make a clear vote on zoning. He stated he cannot support

this resolution until the County Attorney's Office makes their review. **Commissioner Rokosch amended his motion to include a provision that zoning regulations must undergo a comprehensive review every five years, and any changes made would be confirmed by voters at the next election. Commissioner Driscoll seconded the amended motion. Commissioner Grandstaff, Commissioner Rokosch, Commissioner Chilcott and Commissioner Driscoll voted 'aye'. Commissioner Thompson voted 'nay'.**

**Commissioner Chilcott made a motion to adopt the resolution he presented which would require a vote by the people.** He stated he would like to discuss how they can make it efficient. **Commissioner Chilcott then withdrew this motion.** Discussion then continued on Commissioner Chilcott's opinion. He stated for a citizen five years is untenable if you live in an area that is zoned contrary to your wishes. He stated he likes the comprehensive review, but felt it is important to allow the voters their ability to vote on the zoning. While this sitting body will respect the sunset provision, he can not bind future boards for that review provision. Commissioner Chilcott stated the citizens want assurances and this Board can give those assurances to them. He stated if this Board can come up with some 'word smithing' which the citizens will feel protect them, then he feels there won't be a petition brought forth which will result in a special election. He noted he does not want to throw the Growth Policy out, so the most efficient way is to come up with the right language which will allow a vote of the citizens.

Commissioner Rokosch stated if they can make those word smithing changes, they can bring this issue back. He stated the Board, just now, by the previous motion gave the citizens the right to vote in the future. Also, within the regulations, they have the ability to make changes if things don't work. Appeals can be made for rezoning and variances procedures so people don't need to wait five years.

Commissioner Driscoll stated every time they put things out to citizen vote, the Board of County Commissioners gets off the hook. She would like to have a balance of responsibility. If citizens see the Growth Policy for what it is and they vote it down, the county will have helter-skelter. She doesn't want to confuse the citizens by putting the Growth Policy on the ballot for November. She would rather for the next two years, have the citizens read it and understand it so they can vote on it with some intelligence.

Commissioner Chilcott stated they have until August 21<sup>st</sup> to come up with the proper language for the ballot. He suggested they have another meeting and word smith this in order to give the people that option in November. He would like the elected Commissioners to commit to the citizens right to vote. He noted Commissioner Rokosch could reconsider his earlier motion on the sunset provision, this proposal that he is submitting could then be passed.

Commissioner Thompson stated he would like another meeting if the Board of County Commissioners is going to look seriously at it. If the Board's vote is three versus two, then why waste everyone's time.

Commissioner Driscoll stated the sunset provision allows citizens a vote. Commissioner Grandstaff agrees the sunset provision allows citizens to vote; therefore the Board of County Commissioners has compromised. If signatures need to be collected, then those citizens can move forward, but while they are collecting those signatures, the Board needs to think about the cost of a special election.

Commissioner Chilcott stated by coming up with better language today the citizens do not need to start a petition and obtain the signatures. The citizens are simply asking for 'iron clad insurance from regulatory proliferation'. Commissioner Rokosch stated the constitution of the State of Montana and United States constitution can be changed, so he is struggling to see what this will do. Commissioner Grandstaff stated if they adopt zoning it will continue to change and evolve with the people living in the county.

Commissioner Thompson stated constitutions change by the vote of the people.

Commissioner Grandstaff stated the regulatory document has variance procedures locked in and nothing is set in stone. Commissioner Chilcott stated the Draft C zoning regulations sitting in the wings has people concerned and it is his fear they will vote to repeal the Growth Policy in order to protect their property because of Draft B. Commissioner Grandstaff stated some will see this as two bites to kill zoning.

**Commissioner Chilcott made a motion to continue the meeting until August 18<sup>th</sup> at 5 p.m. to consider amending the language of this resolution he has brought forward. Commissioner Thompson seconded the motion.** Discussion of the motion then took place. Commissioner Grandstaff asked how alert will we be at 5:00 p.m.? Commissioner Chilcott stated he will brainstorm this weekend in order to make this document more efficient. Commissioner Driscoll asked if he was going to talk to Bill and Alex. Commissioner Chilcott replied he will visit with Alex. Commissioner Grandstaff commented on Commissioner Chilcott working with Alex who is employed by someone who is suing the Board of County Commissioners. Commissioner Chilcott stated Alex is a personal friend of his. Commissioner Rokosch stated this has to go to the County Attorney and not outside counsel. Commissioner Chilcott replied he is simply looking for language at this point and understands the County Attorney will make that review. **Commissioner Chilcott and Commissioner Thompson voted "aye". Commissioner Grandstaff, Commissioner Driscoll and Commissioner Rokosch voted "nay".**



Resolution No. \_\_\_\_\_

WHEREAS, Montana Code Annotated §§ 7-5-131 through 7-5-137 (2007), provide a method for Ravalli County voters to propose and adopt resolutions for Ravalli County, Montana; and

WHEREAS, on November 7, 2006, the voters of Ravalli County, Montana passed an initiative which adopted a zoning regulation limiting subdivisions in Ravalli County to a density of 1 residence per 2 acres, for a period of one year, and that regulation was extended on October 20, 2007 for an additional year by the Ravalli County Board of Commissioners; and

WHEREAS, the Ravalli County Commissioners have directed the Ravalli County Planning Department to prepare permanent zoning regulations and maps for all or most of Ravalli County, and have hired multiple outside consultants to do the same; and

WHEREAS, the power of the Ravalli County Commissioners to zone property in the absence of an affirmative request to do so by a majority of the affected landowners is derived from Montana Code Annotated Title 76, Chapter 2, Part 2 (COUNTY ZONING); and

WHEREAS, the Ravalli County Board of County Commissioners also has the authority to zone property pursuant to a request from those landowners wishing to be zoned, which is derived from Montana Code Annotated Title 76, Chapter 2, Part 1 (VOLUNTARY ZONING) and to institute zoning regulations or maps in response to an emergency, derived from Montana Code Annotated §§ 76-2-206 (INTERIM ZONING); and

WHEREAS, Ravalli County has spent hundreds of thousands of dollars since November 2006 considering permanent zoning maps and regulations; and

WHEREAS, permanent COUNTY ZONING regulations and maps would create significant changes in the uses allowed on land in Ravalli County, and are therefore of the utmost concern to the residents of Ravalli County, and constitute the most important governmental action in recent memory, as well as the most complicated and complex; and

WHEREAS, the right of citizens to vote and therefore control their own affairs is possibly the most fundamental, inalienable right of Americans; and

WHEREAS, the right to citizen democracy is not preserved if citizens cannot vote on a matter as important as COUNTY ZONING; and

WHEREAS, VOLUNTARY ZONING already requires the affirmative consent of the majority of those landowners zoned, and the emergency requiring action by INTERIM ZONING regulations cannot wait until an election can be held.

NOW THEREFORE, it is resolved that the voters of Ravalli County do establish a resolution that an act of the Ravalli County Board of Commissioners creating a COUNTY ZONING map or COUNTY ZONING Regulation, or amendment to either, shall not be effective until and unless it is placed on a regular election ballot and a majority of voters at that election approve it. This resolution does not apply to VOLUNTARY ZONING or INTERIM ZONING regulations or maps.

This Resolution shall become effective upon passage by the qualified electors of Ravalli County.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Bill VanCangen

50/CC)6

Alex Real - final draft - Dallas Erickson, Terry Nelson,

\_\_\_\_\_  
Attest: Ravalli County Clerk & Recorder

25 Members

Joanne Hovle

Nikki  
Sardot

PETITION TO PLACE INITIATIVE NO. \_\_\_\_ ON THE ELECTION BALLOT

If at least 15% of the registered voters in Ravalli County, Montana sign this petition and the total number of voters signing this petition is at least 4317, this measure will appear on the next regular election ballot. If a majority of voters vote for this measure at that election, it will become law.

If at least 25% of the registered voters in Ravalli County, Montana sign this petition and the total number of voters signing this petition is at least 7195, we, the undersigned registered voters of Ravalli County, Montana request that the Ravalli County Election Administrator place this measure on the earliest possible special elections ballot. If a majority of voters vote for this measure at that election, it will become law.

(Proposed) BALLOT STATEMENT

This initiative would adopt a resolution requiring that any permanent county-initiated zoning regulation or map adopted or amended by the Ravalli County Commissioners shall be placed on a regular election ballot, and shall not be valid unless and until a majority of voters at that election approve it.

(Proposed) STATEMENT OF IMPLICATION

☐ **FOR** adopting a resolution requiring any and all zoning regulations and maps be put to a vote of the Ravalli County electorate before being effective.

☐ **AGAINST** adopting a resolution requiring any and all zoning regulations and maps be put to a vote of the Ravalli County electorate before being effective.

Voters are urged to read the complete text of the ordinance attached to this sheet. A signature on this petition is only to put the measure on the ballot and does not necessarily mean the signer agrees with the measure.

**WARNING:** A person who purposely signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Ravalli County, Montana voter is subject to a \$500 fine, 6 months in jail, or both. Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

Signature	Date	Address as Shown on Voter Registration Card	Last Name (please print)	First Name, Middle Initial (please print)
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**Glenda Wiles**

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**From:** Shannon Alexander [s.alexander@q.com]  
**Sent:** Tuesday, August 12, 2008 4:05 PM  
**To:** Glenda Wiles  
**Subject:** RIGHT TO VOTE!

I cannot attend the meeting tomorrow as I'm working, but I would be there in full support for the RIGHT TO VOTE ON ZONING, THE COMMUNITY HAS A RIGHT TO DECIDE WHAT, WHEN AND WHERE THINGS ARE HAPPENING!!

JEFF AND SHANNON ALEXANDER  
1252 WILLOW CREEK RD  
CORVALLIS, MT 59828  
406-961-3101  
s.alexander@q.com

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**RECEIVED**  
**AUG 08 2008**

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WHEREAS, permanent COUNTY ZONING regulations and maps would create significant changes in the uses allowed on land in Ravalli County, and are therefore of the utmost concern to the residents of Ravalli County, and constitute the most important governmental action in recent memory, as well as the most complicated and complex; and

WHEREAS, the right of citizens to vote and therefore control their own affairs is possibly the most fundamental, inalienable right of Americans; and

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Adopted this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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Attest: Ravalli County Clerk & Recorder